

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

IN RE:

WILLIAM S MCCLURE

CASE NO. BKY 04-35132 GFK
CHAPTER 13

REPORT OF STANDING
TRUSTEE
TO MOTION OF
D. H. GUSTAFSON COMPANY
FOR RELIEF FROM STAY

In response to the above motion, the Trustee reports to the Court as follows:

1. As of **September 14, 2004** the Trustee has received payments totaling \$0.00 from the debtor(s). Debtor(s) is/are current on payments required under the proposed plan. The Trustee has funds on hand for distribution of \$0.00.

2. The Trustee has reviewed the above motion as to its possible effect on the debtor(s)' plan and the claims of the other creditors as provided for thereunder, **and the Trustee notes the following:**

1) **The debtors have made provision in ¶ 5 of their proposed Chapter 13 plan for payment of the Movant's secured claims. The Trustee believes that if the plan is confirmed as scheduled on October 28, 2004 the order confirming the plan will render moot the motion for relief from the automatic stay. See Matter of Garrett, 185 B.R. 620, 623 (Bky. N.D. Ala. 1995); In re Diviney, 211 B.R. 951, 963-964 (Bky. N.D. Okla. 1997), aff'd., 225 B.R. 762 (10th Cir. BAP 1998). To avoid this scenario, the Trustee believes that Movant should also object to confirmation of the debtors' plan.**

2) **The Trustee takes no position as to the merits of the Motion.**

3. The Trustee hereby notifies movant and movant's attorney that further payment, if any, of movant's secured claim as allowed, will be held by The Trustee but not delivered to movant. *If the Court grants the relief prayed for, and subject to confirmation of the plan, the Trustee shall make no further payments on the claim, unless the claim is amended or the Trustee is advised by movant that the movant's claim is not affected by the relief granted.* The Trustee shall hold funds for 30 days following the grant of relief to allow movant to properly advise the Trustee.

4. This motion refers to post-petition payments which are to be made directly by the debtor(s).

Standing Chapter 13 Trustee

Dated: September 14, 2004

/s/ Jasmine Z. Keller

Jasmine Z. Keller, Trustee
Thomas E. Johnson, Counsel (#52000)
Margaret H Culp, Counsel (#180609)

copy to: U.S. Trustee
Robyn K. Johnson
Robert J. Hoglund

VERIFICATION

I, Amber Bjork, an employee of Jasmine Z. Keller, the Standing Chapter 13 Trustee, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

/e/ Amber Bjork
Amber Bjork
12 South 6th Street
Suite 310
Minneapolis, MN 55402